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Report of the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994

Security Council
Sixty-fourth year

Report of the International Criminal Tribunal for Rwanda

Note by the Secretary-General

The Secretary-General has the honour to transmit to the members of the General Assembly and to the members of the Security Council the fourteenth annual report of the International Criminal Tribunal submitted by the President of the International Criminal Tribunal in accordance with article 32 of its statute (see Security Council resolution 955 (1994), annex), which states:

> "The President of the International Tribunal for Rwanda shall submit an annual report of the International Tribunal for Rwanda to the Security Council and to the General Assembly."

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Please recycle

Letter of transmittal

31 July 2009

Excellencies,

I have the honour to submit the fourteenth annual report of the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994 dated 31 July 2009 to the General Assembly and the Security Council, pursuant to article 32 of the statute of the International Tribunal.

Please accept, Excellencies, the assurances of my highest consideration.

(*Signed*) Charles Michael Dennis **Byron**
President

President of the General Assembly
United Nations
New York

President of the Security Council
United Nations
New York

Fourteenth annual report of the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994

Summary

The present annual report outlines the activities of the International Criminal Tribunal for Rwanda for the period from 1 July 2008 to 30 June 2009.

The Tribunal faced an unprecedented workload in the reporting period and will continue to do so during the next year. The three organs of the Tribunal work closely together to ensure that the Tribunal meets the expectations of all stakeholders and the targets of its completion strategy, without compromising the requirements of fair trials and high standards of justice.

Six trial judgements concerning nine accused were delivered in the reporting period, bringing to 45 the total number of persons whose judgements were completed at the first instance. The evidence phase in trials against 15 persons has been completed. At the end of the reporting period, judgements were being drafted in seven cases, involving 18 accused.

Following the arrests of three indictees, the denial of requests for the referral of cases to Rwanda, a contempt of court indictment and an order for retrial, the Tribunal was faced with a high number of new cases during the reporting period. Seven trials commenced in the reporting period, two of which had already completed the evidence phase. Five further trials will commence, and be partly completed, in the course of 2009.

In addition to many interlocutory decisions and pretrial orders, the Appeals Chamber rendered two judgements in single-accused cases, bringing to 27 the total number of persons whose judgements had been completed at the appellate level.

Judge Dennis Byron (Saint Kitts and Nevis) and Judge Khalida Rachid Khan (Pakistan) were re-elected for a second term as President and Vice-President in May 2009.

The Office of the Prosecutor accelerated its efforts to ensure the arrest of the remaining 13 fugitives, including enhanced cooperation with Member States. It also assisted Rwandan authorities in their efforts to meet the conditions for the transfer of cases as established by the Trial and Appeals Chambers, which could enable renewed requests for referrals.

The Registry maintained high-level administrative and judicial support to the Tribunal. It ensured the cooperation and assistance of Member States with the Tribunal and conducted a diverse range of outreach and capacity-building activities in Rwanda. The various units and sections of the Judicial and Legal Services Division provided continuous support to trial proceedings. The Division of Administrative Support Services continued its efforts to ensure smooth management of the Tribunal downsizing process.

During the final period of the Tribunal lifespan, the cooperation and support of Member States will be even more indispensable in order to ensure the arrest of the remaining indictees, to relocate acquitted persons and persons who have served their sentence and to provide the Tribunal with sufficient resources to successfully complete its mandate. The Tribunal, for its part, will continue to prove its full commitment to completing its mandate without undue delay.

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I. Introduction

1. The fourteenth annual report of the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January 1994 and 31 December 1994 ("Tribunal") outlines the activities of the Tribunal for the period 1 July 2008 to 30 June 2009.

2. The Tribunal, through the Office of the President, the Chambers, the Office of the Prosecutor and the Registry, continued its efforts to meet the goals of its completion strategy, as endorsed by the Security Council in resolution 1503 (2003). All three Trial Chambers were working at full capacity, facing an unprecedented workload in the pre-closure phase.

II. Activities of the Tribunal

Page

5 3. The Tribunal is composed of three Trial Chambers, one Appeals Chamber, the
5 Prosecutor and a Registry. Since 29 May 2007, Judge Dennis Byron (Saint Kitts and
5 Nevis) has served as President and Judge Khalida Rachid Khan (Pakistan) as
6 Vice-President. Both were re-elected for a second term on 8 May 2009.

A. Activity of the President

1. Judicial activity

7 4. During the reporting period, the President made decisions on the transfer of
14 18 convicted persons to Mali and Benin for the enforcement of their sentences. He
15 also issued orders on a variety of other matters, including the conditions of
20 detention of an accused and the designation of trial benches for the variation of witness protection orders.

2. Completion strategy

5. In close cooperation with the Prosecutor and the Registrar, the President continued efforts to implement the completion strategy. On 12 December 2008 and 4 June 2009, the President submitted the six-monthly completion strategy reports to the Security Council. Special emphasis was put on ensuring that the 10 new trials scheduled to commence in 2009 did so expeditiously without comprising the rights of the accused. The downsizing strategy of the Tribunal was further developed in the context of preparing the budget submissions for the biennium 2010-2011.

3. Diplomatic relations and other representation

6. The President maintained regular contact with United Nations Headquarters and the diplomatic community, both in the host country, at the seat of the United Nations and in third countries. The United Nations secretariat, in particular the Office of Legal Affairs, provided invaluable support to the Tribunal, both in terms of legal advice and in ensuring efficient cooperation with the Security Council and the General Assembly. Visits to the Tribunal of the Secretary-General and the

Under-Secretary-General for Legal Affairs further strengthened the close cooperation.

7. In September 2008, the Security Council informal working group on the Tribunals visited the Tribunal for two days, meeting with the Principals and representatives of all sections. The visit allowed the delegates to see the Tribunal's work first-hand and to discuss with stakeholders residual and legacy issues relating to the closing down of the Tribunal in particular.

B. Activities of the coordination mechanisms

1. Coordination Council

8. The Coordination Council, consisting of the President, the Prosecutor and the Registrar, met regularly to discuss issues affecting the entire Tribunal, such as the completion strategy, staffing matters and the preparation of the budget submission for 2010-2011. With the support of the Tribunal Legacy Committee, the Coordination Council also worked on residual and legacy matters, in particular in relation to the preparation of draft reports of the Secretariat to the Secretary-General on the administrative and budgetary aspects of the options for possible locations for the Tribunal archives and the seat of the residual mechanism.

2. Bureau

9. The Bureau, composed of the President, the Vice-President and the presiding judges of the three Trial Chambers, was consulted by the President in regular meetings and through written exchanges on issues relating to the functioning of the Tribunal and on requests for early release or commutation of sentence.

3. Plenary sessions

10. During the reporting period, the Tribunal judges met in three plenary sessions to discuss a variety of issues, including several suggested amendments to the Tribunal Rules of Procedure and Evidence. An amendment to rule 75 was adopted. At its session of 8 May 2009, the plenary also re-elected the President and the Vice-President of the Tribunal for a second term.

4. Rules Committee

11. The Rules Committee submits or discusses proposals for amendments of the Rules of Procedure and Evidence. It is currently composed of Judges Vagn Joensen (Chair), Seon Ki Park and Gberdao Gustave Kam, assisted by Legal Officers from the Chambers. Following a discussion at the plenary session of 8 May 2009, the Committee was extended to comprise representatives of the Office of the Prosecutor and Defence Counsel.

C. Activity of the Chambers

1. Composition of the Chambers

12. The Chambers are composed of 14 permanent judges and 11 ad litem judges. Seven permanent judges sit in the three Trial Chambers and seven permanent judges sit in the Appeals Chamber. Two permanent judges, Judge Jai Ram Reddy (Fiji) and Judge Inés M. Weinberg de Roca (Argentina), as well as one ad litem judge, Judge Robert Fremr (Czech Republic) left the Tribunal at the end of 2008. Three new ad litem judges, Judge Joseph Masanche (United Republic of Tanzania), Judge Mparany Rajohnson (Madagascar) and Judge Aydin Sefa Akay (Turkey) joined the Tribunal in the beginning of 2009.

13. The Trial Chambers are currently composed of Judges Dennis Byron (St. Kitts and Nevis), Khalida Rachid Khan (Pakistan), William H. Sekule (United Republic of Tanzania), Erik Møse (Norway), Arlette Ramaroson (Madagascar), Sergei Alekseevich Egorov (Russian Federation), Joseph Asoka Nihal de Silva (Sri Lanka) as permanent judges and Solomy Balungi Bossa (Uganda), Lee Gacugia Muthoga (Kenya), Florence Rita Arrey (Cameroon), Emile Francis Short (Ghana), Taghrid Hikmet (Jordan), Seon Ki Park (Republic of Korea), Gberdao Gustave Kam (Burkina Faso) and Vagn Joensen (Denmark) and the three new judges mentioned above, as ad litem judges.

14. The Appeals Chamber is composed of Judges Patrick Robinson (Jamaica) as presiding judge, Mehmet Güney (Turkey), Fausto Pocar (Italy), Liu Daqun (China), Andrésia Vaz (Senegal), Theodor Meron (United States of America) and Carmel Agius (Malta). Judges Wolfgang Schomburg (Germany) and Mohamed Shahabuddeen (Guyana) resigned from the Appeals Chamber in November 2008 and May 2009, respectively.

15. Each Trial Chamber may be divided into sections of three judges. Since the adoption of Security Council resolution 1855 (2008), the sections may be composed of ad litem judges exclusively, which also means that they are now competent to preside over a case.

16. Two permanent judges of the Tribunal were assigned to the Appeals Chamber, in accordance with article 13 of the Statute. The Tribunal requested Security Council authorization for the redeployment of up to four additional trial judges of the Tribunal to the Appeals Chamber in order to enable the Appeals Chamber to handle the increased workload in the forthcoming years.

2. Principal activity of the Trial Chambers and the Appeals Chamber

(a) Trial Chamber I

17. During the reporting period, Trial Chamber I rendered one judgement, engaged in judgement writing in two other cases, sat in two ongoing trials and attended to pretrial matters in three cases. It also rendered a decision on a request for referral of a case to Rwanda.

Judgement rendered

Bagosora et al

18. On 18 December 2008, the Chamber (Judges Møse, presiding, Reddy and Egorov) rendered a judgement in the *Bagosora et al.* ("Military I") case involving four senior officers of the Rwandan Army. Colonel Théoneste Bagosora, former Director of Cabinet in the Ministry of Defence, Major Aloys Ntabakuze, former Commander of the Para Commando Battalion, and Colonel Anatole Nsengiyumva, former commander of the Gisenyi operational sector, were convicted of genocide, crimes against humanity and war crimes and sentenced to life imprisonment. The Chamber acquitted General Gratien Kabiligi, the head of the operations bureau (G-3) of the Army General Staff, of all charges and ordered his release. Bagosora, Ntabakuze and Nsengiyumva have appeals pending.

19. The trial spanned 409 trial days, and 242 witnesses testified. Nearly 1,600 exhibits were tendered into evidence and about 300 written decisions were issued. There were approximately 4,500 pages of final submissions from the parties.

Cases in the judgement drafting phase

Renzaho and *Nsengimana*

20. The Chamber (Judges Møse, presiding, Egorov and Arrey) will deliver the judgement in the case of Colonel Tharcisse Renzaho (former prefect of Kigali-Ville) on 14 July 2009. In the course of the trial, the parties called 53 witnesses during 49 trial days. Closing arguments were heard on 14 and 15 February 2008.

21. The trial of Hormisdas Nsengimana (Catholic priest), began on 22 June 2007 before the same Chamber. The parties called 43 witnesses during 42 trial days. Closing arguments were heard on 12 and 13 February 2009. Judgement is expected later this year.

Ongoing trials

Setako and *Munyakazi*

22. The trial of Lieutenant-Colonel Ephrem Setako (former Director of the Judicial Affairs Division of the Ministry of Defence) began on 25 August 2008 before Judges Møse (presiding), Egorov and Arrey. The Prosecution completed its case on 22 April 2009, having presented 21 witnesses. The Defence case began on 4 May 2009 and finished on 26 June 2009, calling 35 witnesses. During the reporting period, the Chamber issued eight written decisions. Closing arguments will take place in October 2009, with judgement expected to be rendered by the end of the year.

23. The Prosecution case against Yussuf Munyakazi, a businessman, commenced on 22 April 2009 before Judges Arrey (presiding), Akay and Rajohnson. Eleven witnesses were heard over seven trial days. The Defence case is scheduled to commence on 31 August 2009. Judgement is expected in 2010. During the reporting period, the Trial Chamber delivered seven written decisions.

Referral decision

Gatete

24. On 17 November 2008, the Chamber (Judges Møse, presiding, Egorov and Arrey) denied the Prosecutor's request to refer the case of Jean-Baptiste Gatete, a businessman, to Rwanda pursuant to rule 11 bis. The decision, which the Prosecution did not appeal, followed the Chamber's previous denial of transfer to Rwanda in the case of Gaspard Kanyarukiga in June 2008. This latter decision, which raised concerns about possible problems in obtaining witnesses and the risk of solitary confinement in Rwanda, was upheld by the Appeals Chamber in October 2008.

Pretrial matters

25. The Chamber (Judge Møse, presiding) held status conferences in three cases. A pretrial conference was held in the case of Callixte Nzabonimana on 15 December 2008, which was transferred to another pretrial Chamber on 9 February 2009. A pretrial conference was held on 20 March 2009 in the case of Yussuf Munyakazi, whose trial began before the Chamber, as noted above. On 26 March 2009, the Chamber also handled a status conference for the trial of Jean-Baptiste Gatete, which will commence in the third quarter of 2009.

(b) Trial Chamber II

26. During the reporting period, Trial Chamber II rendered one judgement, completed the evidence phase in three multi-accused cases involving 14 accused and commenced one trial. Two further cases are in the pretrial stage.

Judgement rendered

Rukundo

27. On 27 February 2009, the Chamber, composed of Judges de Silva (presiding), Hikmet and Park, delivered the judgement in the case of Emmanuel Rukundo, a former military chaplain. He was convicted of genocide and extermination and murder as crimes against humanity based on his participation in the killing of and the causing of serious bodily harm to Tutsi in April and May 1994 in Kabgayi, Gitarama *préfecture*. Rukundo was also found guilty, by a majority of the Chamber, of causing serious mental harm for the sexual assault of a young Tutsi woman. Considering, in particular, Rukundo's stature in society as a priest as an aggravating circumstance, the Chamber sentenced the accused to 25 years imprisonment. Over 67 trial days, the Chamber heard 50 witnesses, including Rukundo. The judgement is under appeal.

Multi-accused cases in the judgement drafting phase

Government II, *Butare* and *Military II*

28. The case of *The Prosecutor v. Casimir Bizimungu et al.* ("*Government II*" case) concerns four former Rwandan ministers of the Interim Government of 9 April 1994: Casimir Bizimungu (Minister of Health); Justin Mugenzi (Minister of Trade and Industry); Prosper Mugiraneza (Minister of the Civil Service); and Jérôme-Clément Bicamumpaka (Minister for Foreign Affairs and Cooperation). Towards the

end of the past reporting period, the Chamber, composed of Judges Khan (presiding), Muthoga and Short, finished the evidentiary phase of the case. During the current reporting period, the Chamber conducted a site visit in Rwanda from 5 to 10 October 2008. The parties filed their closing briefs between 1 October and 21 November 2008, and oral arguments were heard between 1 and 5 December 2008. The Chamber rendered in excess of 30 written decisions on interlocutory motions. Judgement delivery is anticipated for mid-2010.

29. In the *Nyiramasuhuko et al.* trial ("*Butare*" case) before Judges Sekule (presiding), Ramaroson and Bossa, Elie Ndayambaje (former *bourgmestre* of Muganza Commune in Butare *préfecture*), the last of the six accused in the joint trial, completed the presentation of his defence case. The other accused are Pauline Nyiramasuhuko (former Minister of Family and Women's Development); Arsène Shalom Ntahobali (alleged leader of an Interahamwe group in Butare in April 1994); Sylvain Nsabimana (*préfet* of Butare from 19 April to 17 June 1994); Alphonse Nteziryayo (*préfet* of Butare from 17 June to July 1994); and Joseph Kanyabashi (former *bourgmestre* of Ngoma *commune* in Butare). Fourteen defence witnesses were heard, including the accused. The case closed on 2 December 2008. The parties closing briefs were filed on 17 February 2009. Pursuant to defence requests, the Chamber recalled four prosecution witnesses on 23 and 24 February 2009. The parties oral closing arguments were heard from 20 to 30 April 2009. Since 1 July 2008, the Chamber sat for 65 trial days and issued 33 written and 15 oral decisions. The Chamber is currently deliberating on the judgement, which is anticipated for the third quarter of 2010.

30. In the *Ndindiliyimana et al.* trial ("*Military II*" case) before Judges de Silva (presiding), Hikmet and Park, the third of four accused, François Xavier-Nzuwonemeye (former Commander of the Reconnaissance Battalion of the Rwandan Army), who commenced his defence on 23 June 2008, completed his case on 8 October 2008, following the defence cases of Augustin Bizimungu (former Chief of Staff of the Rwandan Army) and Augustin Ndindiliyimana (former Chief of Staff of the *Gendarmerie nationale*). On 20 October 2008, the Chamber commenced hearing the case of the final accused, Innocent Sagahutu (former commander of Squadron A, Reconnaissance Battalion of the Rwandan Army). Over the course of 27 trial days, Sagahutu presented 28 witnesses. On 4 December 2008, the proceedings were adjourned until 16 February 2009, when the Chamber heard the evidence of four recall and additional witnesses as a remedy for the prosecution's violation of its obligation to disclose exculpatory material under rule 68 of the Rules of Procedure and Evidence. On 31 March 2009, the parties filed their final closing briefs, and from 13 to 17 April 2009, the Chamber and the parties conducted a site visit to Rwanda. The Chamber heard the parties closing arguments on 24, 25 and 26 June 2009. During the reporting period, the Chamber sat for a total of 53 trial days. It rendered 22 written and 15 oral decisions. Judgement drafting will continue into 2010.

Ongoing trial

Hategekimana

31. The case of Ildephonse Hategekimana (commander of the Ngoma Military Camp), opened on 26 January 2009, following decisions issued by the Trial and the Appeals Chambers in late 2008, which rejected the requested referral of the case to

Rwanda for trial. At the opening of the trial, the presiding judge recused herself because she had been a member of the bench in another case where there was a finding of fact concerning the accused. The case was reassigned to a new bench composed of Judges Ramaroson (presiding), Hikmet and Masanche and commenced on 16 March 2009. Over 21 trial days, the Chamber heard the evidence of twenty prosecution witnesses and issued 4 written and 16 oral decisions. On 22 June 2009, the defence case commenced. The case will close in mid-September, following a second session for the presentation of additional defence witnesses.

Pretrial matters

32. Augustin Ngirabatware, the former Minister of Planning, made his initial appearance before Judge de Silva on 10 October 2008, following his arrest and transfer from Germany, and pleaded not guilty to all counts in the indictment. A further appearance followed before Judge Sekule on 9 February 2009. In June 2009, the Pretrial Chamber, composed of Judges Sekule (presiding), Bossa and Rajohnson, ordered start of the trial on 3 August 2009, after the Appeals Chamber had remanded the Trial Chamber decision setting the trial date for 18 May 2009. On 16 June 2009, Lead Counsel for the defence was withdrawn. During the reporting period, the Chamber held three pretrial hearings and issued 15 written decisions.

33. Trial Chamber II is currently also preparing the trial against Gaspard Kanyarukiga, a former businessman. In June 2008, Trial Chamber I had denied the Prosecution request to transfer the case to Rwanda. The denial was confirmed by the Appeals Chamber on 30 October 2008. The initially planned start of the trial in June had to be postponed due to resignation of the co-counsel for health reasons. The trial is now scheduled to commence on 31 August 2009 before Judges Hikmet (presiding), Park and Masanche. In the reporting period, the Pretrial Chamber has issued two written and five oral decisions.

(c) Trial Chamber III

34. During the reporting period, Trial Chamber III rendered four judgements, started and closed evidence in one case, continued trial proceedings in one multi-accused case, commenced proceedings in two further cases and prepared trial in one case. One request for referral of a case to a national jurisdiction was denied.

Judgements rendered

Nchamihigo, Bikindi, Zigiranyirazo and *Kalimanzira*

35. On 24 September 2008, the Chamber, composed of Judges Byron (presiding), Kam and Fremr, convicted Siméon Nchamihigo (former Deputy Prosecutor of Cyangugu) of genocide and extermination, murder and other inhumane acts as crimes against humanity based on his participation in the killing of Tutsi in April 1994 at various places in Cyangugu. Considering in particular his prominent public position as an aggravating circumstance, the Chamber sentenced him to life imprisonment. During the trial, the Chamber heard 61 witnesses, including Nchamihigo, over 58 trial days.

36. On 2 December 2008, the Chamber, composed of Judges Weinberg de Roca (presiding), Arrey and Fremr, convicted singer and composer Simon Bikindi of direct and public incitement to commit genocide and sentenced him to 15 years

imprisonment. The Chamber acquitted the accused for conspiracy to commit genocide, genocide, complicity in genocide and crimes against humanity. In the course of the trial, the Chamber heard 57 witnesses over 61 trial days.

37. On 18 December 2008, the Chamber, composed of Judges Weinberg de Roca (presiding), Khan and Muthoga, issued the judgement in the case against Protais Zigiranyirazo, the brother-in-law of late Rwandan President Habyarimana. The Chamber found him guilty of having participated in a joint criminal enterprise with the common purpose of committing genocide and extermination of Tutsi, as well as aiding and abetting genocide. He was sentenced to 20 years imprisonment. In the course of the trial, the Chamber heard 67 witnesses over 88 trial days.

38. On 22 June 2009, the Chamber, composed of Judges Byron (presiding), Kam and Joensen, delivered the judgement in the case against Callixte Kalimanzira, the former chef de cabinet of the Ministry of the Interior. He was found guilty of genocide and direct and public incitement to commit genocide and sentenced to 30 years imprisonment. The trial commenced on 5 May 2008. The Chamber heard 66 witnesses, including Kalimanzira, over 37 trial days. The Chamber rendered 19 interlocutory decisions and orders. Closing briefs were filed on 2 April 2009, and closing arguments were heard on 20 April 2009.

Judgement in the drafting phase

Nshogoza

39. The accused, Léonidas Nshogoza, a former defence investigator in the *Kamuhanda* trial, was charged with contempt of the Tribunal. The trial commenced on 9 February 2009 before Judges Khan (presiding), Muthoga and Akay, and the evidence was concluded on 31 March 2009. The Chamber heard testimony from five prosecution witnesses and 11 defence witnesses, including Nshogoza. Closing briefs in the case were filed on 17 April 2009, and closing arguments were heard on 29 April 2009. The Chamber rendered some 67 written and oral decisions during the course of the reporting period. Judgement delivery is scheduled for 2 July 2009.

Ongoing trials

Karemera et al., *Ntawukulilyayo* and *Muvunyi (retrial)*

40. In the *Karemera et al.* trial, the Chamber, composed of Judges Byron (presiding), Kam and Joensen, continued to hear the defence of the first of the three accused, Edouard Karemera, former Minister of Interior. However, the trial was stayed from August 2008 to March 2009, due to the ill-health of the second accused, Matthieu Ngirumpatse, former President of the Mouvement républican national pour le développement et la démocratie, save for the testimony of four witnesses in November 2008. On 3 March 2009, the Chamber ordered the severance of Ngirumpatse from the case, finding that he would be unfit to stand trial for an indeterminate period of time, but stayed its decision until a ruling by the Appeals Chamber. Ngirumpatse consented to the proceedings continuing in his absence, and Karemera concluded his defence on 28 May 2009. On 19 June 2009, the Appeals Chamber reversed the Chamber's decision on severance and remanded the matter to the Trial Chamber for further consideration; the Trial Chamber then ordered a further stay of the proceedings. During the reporting period, the Trial Chamber delivered more than 150 written and oral decisions, sat for 36 days and heard 29

witnesses. Joseph Nzirorera, former President of the National Assembly, will be the next accused to present his defence.

41. The trial against Dominique Ntawukulilyayo, former *sous-préfet* of Gisagara *sous-préfecture* in Butare *préfecture*, commenced on 6 May 2009 before Judges Khan (presiding), Muthoga and Akay. The prosecution called 12 witnesses over 12 trial days. During the reporting period, the Trial Chamber issued 16 written decisions and orders. The defence case is scheduled to commence on 14 September 2009.

42. Following the Appeals Chamber judgement of 29 August 2008, in which it ordered a retrial of Tharcisse Muvunyi (Lieutenant Colonel, *Ecole des sous-officiers*) for an alleged speech he gave in May 1994 at the Gikore Trade Centre, the prosecution presented its case from 17 to 22 June 2009, with six witnesses before Judges Byron (presiding), Kam and Joensen. The defence is scheduled to commence its case on 24 August 2009. In the reporting period, the Chamber issued 26 decisions and orders.

Pretrial matters

43. Since February 2009, the Chamber (Judges Byron, presiding, Kam and Joensen) has been overseeing the trial-readiness in the case of Callixte Nzabonimana; the trial is expected to start in September 2009. The Chamber has delivered five written and oral decisions during the reporting period.

44. The Chamber, composed of Judges Khan (presiding), Muthoga and Akay, is handling pretrial matters in the case of Michel Bagaragaza, who, at the time of the genocide, was the Director-General of the Rwanda Tea Authority, or the Government office that controlled the Rwandan tea industry. Two status conferences were held during the reporting period, and the trial is expected to commence in September 2009 before another bench of Trial Chamber III.

Referral decision

Kayishema

45. On 16 December 2008, the Chamber denied the Prosecutor's request to refer the case of one fugitive, Fulgence Kayishema, a former inspector of police, to Rwanda under rule 11 bis. The Chamber found that the accused might not have a fair trial and could be subject, if convicted, to imprisonment with isolation. The Prosecutor did not appeal the decision.

(d) Appeals Chamber

46. During the reporting period, the Appeals Chamber was seized of appeals on seven judgements, 10 interlocutory appeals, 23 motions for review or reconsideration and three motions for referral. The Appeals Chamber rendered two judgements, 10 interlocutory appeal decisions, 19 decisions related to review or reconsideration, three decisions concerning referral and 133 pre-appeal orders and decisions.

Appeals judgements

Muvunyi and *Karera*

47. Trial Chamber II convicted Tharcisse Muvunyi for genocide, direct and public incitement to commit genocide, and other inhumane acts as a crime against humanity and sentenced him to 25 years imprisonment. The Appeals Chamber heard the parties on 13 March 2008 in Arusha. In its judgement of 29 August 2008, the Appeals Chamber dismissed the Prosecutor's appeal and granted Muvunyi's appeal in part. The Appeals Chamber reversed Muvunyi's convictions for genocide and other inhumane acts as a crime against humanity; reversed one conviction for direct and public incitement to commit genocide; quashed a second such conviction along with the sentence; and ordered a retrial of an allegation under one count of the indictment.

48. Trial Chamber I convicted François Karera (*préfet* of Kigali *préfecture*) for genocide and extermination and murder as crimes against humanity and sentenced him to life imprisonment. The hearing of the appeal took place on 28 August 2008 in Arusha. On 2 February 2009, the Appeals Chamber upheld the convictions for instigating and committing genocide and extermination, and instigating, committing, ordering, and aiding and abetting murder. The Appeals Chamber affirmed the sentence imposed by the Trial Chamber.

Further appeals from judgement

49. Simon Bikindi, Protais Zigiranyirazo and Siméon Nchamihigo filed notices of appeal against their respective trial judgements, as did the Prosecutor in the *Bikindi* and *Zigiranyirazo* cases. Their appeals are being prepared for a hearing. Aloys Ntabakuze and Anatole Nsengiyumva also filed notices of appeal against their trial judgement; Théoneste Bagosora and Emmanuel Rukundo were granted an extension of time to file their notices of appeal within 30 days of the filing of the French translation of their respective trial judgements. The Prosecution also filed its notice of appeal in the *Rukundo* case.

Referral appeals

Munyakazi, *Kanyarukiga*, and *Hategekimana*

50. On 8 and 30 October 2008 and 4 December 2008, the Appeals Chamber upheld decisions denying referral of the *Munyakazi*, *Kanyarukiga*, and *Hategekimana* cases, respectively, to Rwanda. In all three cases, the Appeals Chamber found no error in the finding that the accused persons' right to obtain the attendance of, and to examine, defence witnesses under the same conditions as witnesses called by the prosecution could not be guaranteed in Rwanda at the time.

D. Activity of the Office of the Prosecutor

51. Pursuant to the arrest of three fugitives in the previous reporting period, the Office of the Prosecutor accelerated efforts to ensure the arrest of the remaining 13 fugitives, many of whom are in the conflict zones of the Great Lakes region. Efforts at seeking further cooperation with Member States were also under way, especially with regard to the four fugitives earmarked for trial in Arusha.

52. During the period under review, the Prosecutor continued to finalize preparation of the cases against the fugitives, with a view to the eventual transfer of 9 of the 13 fugitives to national jurisdictions for trial. The Office of the Prosecutor also assisted Rwandan authorities in their efforts to meet the conditions for referral of cases as established by the Appeals Chamber. The Prosecutor hopes that, in the course of the year, Rwandan efforts will be sufficient for his filing of further applications for transfer of the fugitives to Rwanda for trial.

53. In respect of the four fugitives identified for trial at the Tribunal, the Prosecutor requested an amendment to the Rules of Procedure and Evidence to allow for the taking of special depositions to preserve the testimony of potential witnesses who may, when the fugitives are eventually tried, be unavailable to testify.

54. The Office of the Prosecutor continued to receive and to respond to an increasing number of requests for mutual legal assistance from national jurisdictions conducting investigations, with a view to the prosecution or extradition of Rwandan fugitives appearing on the INTERPOL wanted list.

55. In November 2008, the Prosecutor hosted an international conference of prosecutors from all of the international and ad hoc tribunals and select national prosecuting authorities to discuss greater cooperation in tracking, investigating, arresting, transferring and prosecuting suspects and fugitive indictees charged with genocide, war crimes and crimes against humanity. This has led to further cooperation, and discussions are in place to establish institutional arrangements for deepening such international mutual legal assistance in order to fulfil the objectives of the completion strategy and support the struggle against impunity.

E. Activity of the Registry

1. Office of the Registrar

56. The Immediate Office of the Registrar maintained high-level diplomatic contacts with States and international organizations. Through formal and informal agreements, it secured their cooperation with the Tribunal to support the smooth running of trials. During the reporting period, there was a significant increase in judicial cooperation with Member States. More than 300 notes verbales and correspondence requesting judicial assistance and cooperation from Member States were transmitted.

57. Rwanda continued to cooperate with the Tribunal in facilitating the flow of witnesses from Kigali to Arusha and providing relevant documents to trial proceedings.

58. During the reporting period, two prisoners were released after serving their respective sentences of 7 and 12 years of imprisonment. One detainee was acquitted. Nine prisoners were transferred to Mali and nine others were sent to Benin to serve the remainder of their sentences.

59. One acquitted person was relocated to a Member State, but two acquitted persons remain under Tribunal protection, despite strenuous efforts by the Registrar to find a country of residence for them. This issue, as well as of the relocation of convicted persons who will complete their sentence, is becoming increasingly

crucial as the Tribunal moves towards completion and requires the continuous support and cooperation of States.

60. Protocol Support Services recorded a total number of 2,635 visitors, including high officials and members of the general public, academia, civil society and non-governmental organizations. This represented a significant increase compared to the previous period. Among the dignitaries welcomed to the Tribunal were the United Nations Secretary-General, three Under-Secretary-Generals and representatives of United Nations Agencies and ad-hoc Tribunals, diplomatic missions, as well as African-, European- and United States-based organizations.

61. The Press and Public Affairs Unit continued to improve the internal circulation of Tribunal-related media reports. It worked to strengthen and enhance the wide diffusion of Tribunal activities through press meetings, newsletters and press releases. Its website, films and information brochures, including case profiles, leaflets, cartoons and posters in English, French and Kinyarwanda contributed to the communication policy of the Tribunal. The Unit processed numerous local and international media enquiries and broadcast several trial proceedings via satellite signal for use by media professionals. It launched exhibitions on the work of the Tribunal in the United Republic of Tanzania, Rwanda, Senegal and Uganda and organized special outreach programmes involving exhibitions, film screenings, talks and discussions in Kigali and in all other provinces of Rwanda. A continuous communication link was maintained with universities and other educational institutions in Kenya, Uganda, Burundi, Rwanda and the United Republic of Tanzania, and a drawing and essay competition on the Tribunal for primary and secondary school students in the region was organized. Numerous documentaries on completed cases reached the final stages of completion.

62. Through the Outreach Programme, the Tribunal inaugurated six provincial information centres, strategically located throughout Rwanda. Four additional centres will be inaugurated in the weeks ahead. The centres aim to enhance the knowledge of lawyers at each provincial court. The centres also facilitat, the Tribunal awareness-raising workshops and highlight the achievements and challenges of the Tribunal to the people of Rwanda. With the Department of Public Information in New York, the Tribunal organized exhibitions on lessons learned from the Rwandan genocide, targeting 18,000 Rwandan students, teachers and youth organizations. Awareness-raising workshops were held throughout the country for approximately 15,000 students and teachers. A seminar on international criminal law was organized for 50 members of the Rwandan Bar Association, as well as a two-week online legal research training programme for 100 members of the Association. Under the annual programme of research fellowship awards, six students from the National University of Rwanda spent eight weeks at the Tribunal, conducting research in connection with Tribunal jurisprudence and international law under the supervision of staff members. All training sessions and workshops were generously funded by the European Union.

63. Under the coordination of the Special Adviser to the Registrar on Gender Issues, a module was prepared for sessions to be scheduled in mid-2008 for security sector personnel on gender sensitivity in the management of victims. However, with the impending departure of the Special Adviser to the Registrar, the sessions were not held. Given the recent designation of a Gender Focal Point, the sessions will be tentatively scheduled for the later part of 2009.

64. During the reporting period, the Internship Programme welcomed 205 interns to the Tribunal. About 180 were assigned to the Chambers, the Office of the Prosecutor and the Defence Counsel. The Tribunal also received funding under its Legal Researchers Programme, through which nine candidates from various African countries, including Rwanda and the United Republic of Tanzania, received funding for a three-month legal research assignment at the Tribunal. The growing popularity of the programme among law graduates is attested by the growing number of applications received each year. The Legal Services and Internship Programme Unit also plays an important legal advisory role for matters arising between Tribunal staff members and Tanzanian authorities. During the period under review, the Unit mediated over 20 cases involving staff members and local law enforcement offices. The majority of the cases were resolved without resorting to litigation. Furthermore, the Unit provided legal advice to Tribunal management on a wide range of issues pertaining to the proper implementation and interpretation of United Nations administrative instructions.

2. Judicial and Legal Services Division

65. The Court Management Section continued to provide support services to the Chambers and other stakeholders in the judicial process, including support for site visits in Rwanda, depositions and video-link hearings from various countries. The system for instantaneous production of transcripts continued to be presented throughout Africa, as part of capacity-building initiatives solicited by States. The digitization and redaction of the collection of audio-visual recordings of the proceedings of the Tribunal began and was ongoing. The Court Management Section continued to conduct specialized sessions to strengthen the capacity of the Rwandan court system and maintained assistance in running the legacy and capacity-building committees of the Tribunal.

66. The Defence Counsel and Detention Management Section continued to provide high-quality administrative support to the various defence teams and detainees in Arusha. The Section implemented an improved and streamlined lump sum system for the processing and settlement of defence fees and expenses. The new lump sum system allocates resources to each case according to the stage of procedure and meets the needs of the various defence teams, while realizing increased savings for the Tribunal. The Section also continued to use its innovative web-based system for the electronic filing and processing of defence requests. As a result of these improvements, the Section experienced a significant reduction in the number of complaints from the Defence Counsel. The Section also introduced a new and detailed questionnaire aimed at determining trial readiness, immediate availability and the level of commitment of the Defence Counsel prior to the recruitment of Defence Counsels. Through the use of the questionnaire, the Section was able to maintain stricter control over defence matters, to reduce the number of withdrawals and to ensure that assigned counsel will continue to represent the detainees until the completion of their cases.

67. As stated earlier in the present report, during the reporting period, two prisoners were released and one detainee was acquitted. Eighteen prisoners were transferred to other countries for the enforcement of the remainder of their sentences. As a result, as of 30 June 2009, the United Nations Detention Facility housed a total of 38 persons (30 detainees and 8 convicted persons). Over the same period, the Facility received 20 detained witnesses from Rwanda called to testify in

various trials. The International Committee of the Red Cross visited the Facility on 12 November 2008 and 25 June 2009 and concluded that it conformed to international standards.

68. During the reporting period, the Witness and Victims Support Section ensured the timely availability of a total of 311 witnesses, who were brought from 32 countries in support of the trials of 16 accused persons. Threat assessments were conducted for some witnesses. In accordance with protective measures ordered by the Trial Chambers, transcripts were edited to expunge identifying information of witnesses or their family members, prior to making them public. The Section intensified its post-trial monitoring activities in the countries of residence of witnesses who appeared before the Tribunal. Several witnesses residing in Rwanda enjoyed a wide range of assistance aimed at improving their medical and psychological rehabilitation. The efforts of the Section were successful thanks to the cooperation of several States, which provided temporary travel documents enabling the witnesses to travel to and from Arusha, and to Office of the United Nations High Commissioner for Refugees liaison offices in a number of African countries, which assisted in facilitating the movement and the protection of witnesses. Some States, like Belgium, provided further assistance in escorting witnesses.

69. The Language Services Section continued to provide interpretation, translation and reproduction services to the Chambers, the parties and the Registry. Additionally, in the light of the completion strategy, the roster-building campaign aimed at selecting suitable simultaneous interpreters from various countries scheduled for July and August 2008 was undertaken, and a roster of translators, interpreters and proofreaders was created with a view to pre-empting potential disruption of the trials. Eight proofreaders on the roster had already been recruited on short-term contracts as of February 2009. Documents for translation were outsourced to some translators on the roster.

70. The Legal Library and Reference Section continued to support the judicial process through the acquisition and dissemination of relevant information and documentation resources. The Kigali-based Umusanzu Outreach Library collection was significantly increased to address the needs of Rwandan users. In order to promote the Tribunal and to increase access to its jurisprudence, particularly in areas where the Internet was not available, the Library released the 1995-2008 DVD and the 2007-2008 CD-ROM editions of the *ICTR Basic Documents and Case Law*. In the context of outreach and capacity-building initiatives in Rwanda, the Library conducted a training seminar on online legal research for 100 Rwandan Bar Association lawyers.

3. Division of Administrative Support Services

71. The process of down-sizing posed major challenges to all operations of the Tribunal; all sections of the Division of Administration continued to be proactive and flexible in addressing the challenges.

72. Staff members of the Tribunal come from 80 countries. As of 30 June 2009, the Tribunal had 834 staff members against an authorized complement of 1,032 posts, with 198 vacant posts or a 19 per cent vacancy rate. Based on the current trend of departures, and as staff members continue to look for more stable jobs elsewhere, it is anticipated that the vacancy rate will be above 20 per cent by the end of 2009. The staff gender ratio is 64 per cent male and 36 per cent female.

During the reporting period, the Tribunal undertook a consultative exercise to determine the number and composition of staff to be retained until the completion of the Tribunal's work.

73. With the Tribunal in its down-sizing phase, attracting and retaining competent staff continued to be a major challenge. The short duration of contracts issued to staff members contributed to increased uncertainty and continued to have an impact on the productivity of staff members. The Division of Administration put in place measures aimed at retaining staff and efforts were under way to ensure that contracts were issued in accordance with trial schedules.

74. The Tribunal continued to explore other means of retaining staff until the completion of its mandate. In this regard, the Career Resource Centre organized several career development workshops and training sessions to support staff with their professional aspirations. The Human Resources Planning Section continued to assist staff who were leaving the Tribunal to secure employment elsewhere. The Section continued to compile a compendium of skills available in the Tribunal and planned to hold a job fair, which would bring together the United Nations and several international organizations to review staff résumés, conduct interviews and grant offers of appointment. The Section also provided advice to staff members and judges on their final entitlements and on the implications of the new contractual arrangements and staff rules.

75. The Security and Safety Section continued to work very closely with the relevant authorities of the host country to enhance security measures in line with United Nations requirements and the particular situation of the Tribunal. Within the reporting period, a new security system, "Project access control team", was implemented in accordance with the current global risks analysis conducted by the United Nations Department of Safety and Security.

76. The Information Technology Services Section continued to provide vital support to the Tribunal. The introduction of several online systems tremendously improved various processes. The Audiovisual Unit provided video coverage of all court proceedings and provided video conferencing services for remote witness testimonies and meetings.

77. The Health Services Unit and the Counseling and Welfare Unit continued to address psychosocial, career development, succession planning and other welfare matters of staff members and their families. The two Units continued to provide close monitoring of the health of detainees and staff members. Witnesses were provided with trauma counselling, and professional psychological support was provided to staff and their families. The services of the Units were made available during lunchtime and on weekends in order to better enable staff to make use of their facilities.

78. In the area of resources management, the Budget Unit continued to provide reliable and timely expertise on proper planning, control and monitoring of the utilization of available resources. The Finance Section continued to provide timely and reliable services to staff members and other clients of the Tribunal. The General Services Section and the Procurement Section continued to work closely to develop exit strategies aimed at addressing such issues as repatriation of personnel and their personal effects; safeguarding assets; timely transfer of detainees, witnesses and victims; closure of offices; and final disposal of Tribunal assets.

III. Conclusion and recommendations

79. The Tribunal made significant achievements in the reporting period: six judgements involving nine accused were delivered. The evidence phase in three of the four multi-accused cases and in one single-accused case was completed. Seven trials commenced, two of which had already completed the evidence phase. Five further trials will commence and will be partly completed in the course of 2009.

80. The completion strategy remained a challenge, in particular in the face of the high number of new trials to be conducted before the Tribunal in 2009, the high turnover among staff and the reduced number of judges available to take on additional cases. In this context, the Tribunal continued its efforts to improve the management of the trials in all stages, from pretrial to judgement drafting.

81. The Tribunal appreciates the continuous support of Member States. The support and mutual cooperation remain indispensable, in particular with regard to the challenge of securing the arrest and transfer of the remaining 13 fugitives whose continuous escape from justice must not be accepted by the international community. Cooperation on the relocation of acquitted persons and accused who have served their sentence also remains essential.

82. Completing the trials before the Tribunal expeditiously while maintaining high standards of justice will ensure that the Tribunal legacy will have an impact beyond its judgements in individual cases and will constitute a major contribution to the global fight against impunity.